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expire 30 days after receipt of a decision from the authorized officer determining that diligent efforts are not being made toward utilization of geothermal resources; unless, during such 30-day period, the lessee provides the authorized officer satisfactory evidence that diligent efforts are in fact being made.

[38 FR 35097, Dec. 21, 1973, as amended at 54 FR 13887, Apr. 6, 1989 and 55 FR 26443, June 28, 1990]

§ 3244.5 Removal of materials and supplies upon termination of lease.

Upon the expiration of the lease, or the earlier termination thereof pursuant to this subpart, the lessee shall have the privilege at any time within a period of ninety (90) days thereafter of removing from the premises any materials, tools, appliances, machinery, structures, and equipment other than improvements needed for producing wells. Any materials, tools, appliances, machinery, structures, and equipment subject to removal, but not removed within the 90-day period, or any extension thereof that may be granted because of adverse climatic conditions during that period, shall, at the option of the authorized officer, become property of the lessor, but the lessee shall remove any or all such property where so directed by the lessor.

[38 FR 35097, Dec. 21, 1973, as amended at 53 FR 17372, May 16, 1988]

PART 3250—UTILIZATION OF GEOTHERMAL RESOURCES

Subpart 3250—Utilization of Geothermal Resources

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AUTHORITY: Secs. 3 and 24, Geothermal Steam Act of 1970, as amended (30 U.S.C. 1001-1025).

SOURCE: 44 FR 20391, Apr. 4, 1979, unless otherwise noted.

Subpart 3250—Utilization of Geothermal Resources

§ 3250.0-1 Purpose.

The purpose of this subpart is to establish procedures for the utilization of Federal lands under geothermal lease by persons who have purchased or otherwise acquired the production of geothermal steam and geothermal resources.

[44 FR 20391, Apr. 4, 1979, as amended at 48 FR 17045, Apr. 20, 1983]

§ 3250.0-3 Authority.

These regulations are issued pursuant to the Geothermal Steam Act of 1970 (30 U.S.C. 1001-1025) which authorizes the Secretary of the Interior to prescribe rules and regulations for the development, utilization, and conservation of geothermal steam resources, protection of the public interest, prevention of waste, and protection of water quality and other environmental qualities. The right to use lands under geothermal lease for the purpose of utilizing geothermal resources may be exercised only in accordance with these regulations.

[44 FR 20391, Apr. 4, 1979, as amended at 48 FR 17045, Apr. 20, 1983; 53 FR 17372, May 16, 1988]

§ 3250.0-5 Definitions.

As used in this subpart, the term:

(a) *Licensee* means the individual, partnership, corporation, association, municipality or governmental unit which is authorized to use public lands

for the construction of facilities and utilization of geothermal resources pursuant to this subpart.

(b) *Authorized officer* means any employee of the Bureau of Land Management who has been delegated the authority to perform the duties described in this subpart.

(c) *Proper BLM office* means the State office of the Bureau of Land Management which administers the land subject to the geothermal lease.

(d) *Utilization site* means that tract of Federal lands under geothermal lease authorized for utilization of geothermal energy including, but not limited to, substations, switch yards, waste disposal and storage facilities, utility service lines, transmission lines, loading docks, processing plants, greenhouses, gasohol plants, crop dryers and appurtenant structures.

(e) *Joint Utilization Agreement* means the arrangement between the holder of a geothermal resource lease and a third party for utilization of geothermal steam and associated geothermal resources produced from a leasehold, for operation of utilization facilities.

(f) *Federal Geothermal Lease* means a lease issued under the Geothermal Steam Act of 1970 pursuant to the leasing regulations contained in part 3200 of this title.

(g) *Producible well* means a well capable of producing geothermal steam or geothermal resources in commercial quantities as defined in 43 CFR 3260.0-5 (f) and (g).

[44 FR 20391, Apr. 4, 1979, as amended at 48 FR 17046, Apr. 20, 1983]

§ 3250.0-6 Policy.

It is the policy of this Department to encourage the development and utilization of geothermal resources leased under the Geothermal Steam Act of 1970 in an environmentally acceptable manner. Granting of a lease carries an implied right to reasonable access and land use for development. The provisions of these regulations shall be applied, however, in order to assure reasonable compatibility of any proposed utilization with other authorized uses and resource values of the land.

[44 FR 20391, Apr. 4, 1979, as amended at 48 FR 17046, Apr. 20, 1983]

§ 3250.1 Applications.

§ 3250.1-1 Requirements for application.

Any lessee or any party to a joint utilization agreement or a sales contract who desires a license to use the surface of lands under Federal geothermal lease for construction of utilization facilities, other than as provided in part 3260 and § 3250.4 of this title, shall file an application with the authorized officer.

(a) An application for a license shall be filed in duplicate in the proper BLM office.

(b) Each application must be accompanied by a non-refundable fee of \$50.

(c) No specific form is required.

(d) Each application shall include:

(1) A description of the land applied for by legal subdivision, section, township and range, or by approved protraction surveys, if applicable. If the lands have not been surveyed, the lands shall be described by metes and bounds, giving courses and distances between the successive angle points on the boundary of the tract and connected by courses and distances to an official corner of the public land surveys or a prominent readily identifiable geographic location. The approximate acreage involved shall be included as part of the description.

(2) A map or maps showing the boundaries of the site and the location and dimensions of buildings, cooling towers or ponds, waste disposal or storage sites, switch yards, roads, pipelines, utility service lines, transmission lines and all other structures or facilities used in connection with the utilization of the geothermal steam and associated geothermal resources. In addition, the authorized officer may require maps showing the general location of proposed facilities to be used in connection with utilization of the geothermal resources but outside the license area.

(3) A description of the proposed facility including pertinent information about any substations included in the facility, indicating whether the proposed facility is to be interconnected with other facilities and whether the energy produced is to be sold to others or used by the applicant.

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(4) A copy of any joint utilization agreement or sales contract entered into with a Federal geothermal lessee or lessees and the applicant for the utilization of geothermal steam and associated geothermal resources.

(5) A statement showing the amount of merchantable timber, if any, to be cut, removed or destroyed in the construction of the proposed plant or facility, and a statement of agreement to deposit with the Bureau of Land Management, in advance of construction, the dollar amount as determined by the authorized officer to be the full stumpage value of the timber to be cut, removed or destroyed.

[44 FR 20391, Apr. 4, 1979, as amended at 48 FR 17046, Apr. 20, 1983]

§ 3250.1-2 Who may hold licenses.

Licenses shall be issued only to citizens of the United States, associations of such citizens, corporations organized under the laws of the United States, any State or the District of Columbia or governmental units, including, without limitations, municipalities.

[53 FR 17372, May 16, 1988]

§ 3250.2 Action on application.

Where the authorized officer determines that an application is incomplete or not in conformity with the law or regulations, he shall notify the applicant of the deficiencies and provide an opportunity for correction of the deficiency.

§ 3250.3 Environmental analysis.

The authorized officer shall complete, in a timely manner, any environmental review determined to be necessary to conform with the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

[48 FR 17046, Apr. 20, 1983]

§ 3250.4 Actions not requiring a license.

§ 3250.4-1 Research and demonstration projects.

A research and demonstration (R. & D.) project sited on a Federal geothermal lease consisting of a power generating facility of not more than 20 MW's electrical capacity and with a

maximum life of five years from the date the facility becomes operational will not require a license under the regulations of this subpart. An R. & D. permit for a facility of 20 MW's or less shall be obtained from the Area Geothermal Supervisor under the provisions of 43 CFR part 3260. In the event an R. & D. project is proposed to be retained for commercial operation after the initial five-year period, a license shall be obtained under this subpart. Application for such a license may be submitted prior to construction or at any time during the 5 year permitted life period of the R. & D. project if conversion of the facility to a power plant is contemplated during the permit period. R. & D. permits granted under 43 CFR part 3260 shall conform to the provisions of § 3200.0-6 of this title.

[44 FR 20391, Apr. 4, 1979, as amended at 53 FR 17373, May 16, 1988]

§ 3250.4-2 Individual well production utilization.

A license shall not be required for the purpose of installing a facility for testing or utilization of the production from an individual well for either electrical power generation or any non-electrical beneficial use. However, a license shall be required for any substation or facility for transmission or lease of more than 10 MW maximum output. In order to install such a facility, a permit shall be obtained from the authorized officer under the provisions of part 3260 of this title. Permits granted under part 3260 of this title shall conform with the requirements of § 3200.0-6 of this title.

[44 FR 20391, Apr. 4, 1979, as amended at 53 FR 17373, May 16, 1988]

§ 3250.5 Action required on designated lands.

§ 3250.5-1 Withdrawn or reserved lands.

(a) Where the land sought for utilization facilities for geothermal steam or associated geothermal resources is withdrawn or reserved for the use of a Federal Agency other than Interior, the authorized officer shall consult

with such other agency before the license is issued. The license shall include any terms and conditions required by the surface managing agency.

(b) Where the land sought for utilization facilities for geothermal resources is withdrawn or reserved for the use of an Interior agency, the authorized officer shall consult with such agency before the license is issued. The license shall include any terms and conditions deemed appropriate by the authorized officer.

[44 FR 20391, Apr. 4, 1979, as amended at 48 FR 17046, Apr. 20, 1983]

§ 3250.5-2 Lands under the jurisdiction of the Forest Service.

Where the land sought for utilization facilities for geothermal resources is on any National Forest System lands, the authorized officer shall consult with and obtain the agreement of the Forest Service regarding the specific site selection before the license is issued. The license shall include terms and conditions required by the Forest Service for protection of National Forest resources and for multi-use management.

[44 FR 20391, Apr. 4, 1979, as amended at 48 FR 17046, Apr. 20, 1983]

§ 3250.5-3 Lands subject to section 24 of the Federal Power Act.

Where the land sought for a power plant site utilizing geothermal steam or associated geothermal resources is subject to the provisions of section 24 of the Federal Power Act, as amended (16 U.S.C. 818), the license shall be issued subject to such terms and conditions as the Federal Energy Regulatory Commission, Department of Energy, may prescribe.

§ 3250.5-4 Lands not subject to license.

No license shall be issued for lands which are not subject to leasing for development of geothermal resources, including, but not limited to, lands:

- (a) Administered as part of the national park system;
- (b) Within a national recreation system;
- (c) Within a fish hatchery administered by the Secretary, wildlife refuge,

wildlife range, game range, wildlife management area, waterfowl production area, or for lands acquired or reserved for the protection and conservation of fish and wildlife that are threatened with extinction, or which are designated as rare and endangered species by the Secretary, or under active consideration for inclusion in such categories as evidenced by the filing of a application for a withdrawal or a proposed withdrawal; or

(d) Held in trust or restricted status for an Indian tribe or individual, within or without the boundaries of an Indian reservation.

§ 3250.6 Licenses.

§ 3250.6-1 Area covered by license.

(a) The area approved for the proposed utilization site shall be reasonably compact as determined by the authorized officer and shall be limited to as much of the surface of the lands applied for as the authorized officer determined necessary for the adequate utilization of the geothermal resources.

(b) Prior to commencing any surface disturbance activities related to the construction of a utilization facility licensed under provisions of this group, a permit to construct a utilization facility shall be obtained from the authorized officer. The application for such permit shall be filed in triplicate under the regulations in part 3260 of this title.

[48 FR 17046, Apr. 20, 1983, as amended at 53 FR 17373, May 16, 1988]

§ 3250.6-2 License provisions.

(a) A license for a utilization facility shall be granted for a primary term of 30 years with a preferential right to a renewal of such license under such terms and conditions as the authorized officer may deem appropriate.

(b) A license shall include such terms and conditions as the authorized officer determines are necessary to protect the mineral, environmental, fish and wildlife, historical and scenic or other resource values of the public lands.

(c) A license shall require a copy of any utility commission license or other Federal, State or local license or permit that is applicable to the proposed

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utilization facility to be furnished prior to commencement of any activity relating to plant operation.

[44 FR 20931, Apr. 4, 1979, as amended at 48 FR 17046, Apr. 20, 1983; 53 FR 17373, May 16, 1988]

§ 3250.6-3 Annual rental.

Rental at a rate to be determined by the authorized officer shall be paid annually, but said rental shall not be less than \$100 per acre or fraction thereof if the utilization facility is for electrical generation, or not less than \$10 per acre or fraction thereof if the utilization facility is for non-electrical purposes. The first year's rental shall be paid to the authorized officer before issuance of the license and thereafter the rental shall be payable annually on or before the anniversary date of the license. The license shall provide that, beginning with the tenth year, the rental for the lands embraced in the license shall be reassessed, excluding improvements due to development of the geothermal resources, at the discretion of the authorized officer upon notice to the licensee, but not more often than at 10 year intervals thereafter, except in extraordinary circumstances.

[44 FR 20391, Apr. 4, 1979, as amended at 48 FR 17046, Apr. 20, 1983; 53 FR 17373, May 16, 1988]

§ 3250.7 Bonds.

Bonds shall be either corporate surety bonds or personal bonds.

(a) *Surety bond.* The licensee of an electrical generating facility shall furnish and maintain a surety bond of not less than \$100,000, conditioned upon compliance with all the terms and conditions of the license. The licensee for a nonelectrical utilization facility may be required to furnish a surety bond in an amount specified by the authorized officer. The authorized officer may determine not to require a surety bond in circumstances where it is determined that the nonelectrical uses have a low potential for causing damage to the environment.

(b) *Personal bond.* In lieu of a surety bond, the licensee may submit a personal bond accompanied by cash in an amount equal to the dollar amount of the bond or negotiable securities of the United States having a market value

at the time of the deposit of not less than the required dollar amount of the bond.

(c) *Obligations under bond.* The licensee shall comply with all the terms and conditions of the license under this subpart and shall be:

(1) Liable for all damages to the lands or property of the United States caused by the licensee or his employees or contractors or employees of such contractors, and

(2) Indemnify the United States against any liability for damages or injury to life, person or property arising from the occupancy or use of the lands under license. Where a utilization facility license is granted under this subpart to a State or other governmental agency which does not have the authority to assume such liability with respect to damages caused by it to lands or property, such agency shall be responsible for repair or all such damages.

[44 FR 20391, Apr. 4, 1979, as amended at 48 FR 17046, Apr. 20, 1983]

§ 3250.8 Assignments and transfers.

(a) Any proposed transfers in whole or in part of any right, title or interest in the plant or facility licensed under this subpart shall be filed with the authorized officer. The application for transfer shall be accompanied by the same showing of qualifications of the transferee as is required of the applicant under this subpart, and shall be supported by a stipulation that the assignee shall comply with and be bound by all the terms and conditions of the license. No transfer shall be valid unless and until it is approved in writing by the authorized officer.

(b) An application for approval of an assignment or transfer made pursuant to this section shall be accompanied by a nonrefundable filing fee of \$50.

[44 FR 20391, Apr. 4, 1979, as amended at 53 FR 17373, May 16, 1988]

§ 3250.9 Relinquishment, expiration, or termination of license.

(a) A licensee may surrender a license by filing a written relinquishment in the proper BLM office. The relinquishment shall include a statement as to whether the land covered by the

license has been disturbed and, if so, whether it has been restored as prescribed by the terms and conditions of the license. The relinquishment shall not be accepted until the requirements for reclamation of the land have been met.

(b) A license issued under this part may be terminated by written order of the authorized officer for any violation of any applicable regulation or any license term or condition, after 30 days notice. However, the termination shall not take effect if within the 30 day notice period either (1) the violation is corrected or (2) the licensee has commenced in good faith to correct the violation and shall thereafter proceed diligently to correct the violation where the violation is such that it cannot be corrected within the notice period. If a request for appeal is filed within the 30 day notice period, then the licensee shall be entitled to a hearing on the claimed violation and the termination in accordance with part 4 of this title. In the event such appeal is timely filed, the period for commencement to correct such violation shall be extended to 30 days after a final decision is rendered if it is found that a violation exists.

(c) Upon the relinquishment, expiration, or termination of the license, the licensee shall, if directed by the authorized officer, remove all structures, machinery, and other equipment from the land covered by the license. Any structures, machinery, or equipment allowed to remain on the land shall become the property of the United States on the expiration of the period allowed for removal of same. Removal of such property shall be at the licensee's expense.

(d) The licensee shall, for a period of not more than six months, maintain any equipment and facilities needed, as determined by the authorized officer, for the protection of any wells from which production was being utilized by the licensee.

(e) Where land covered by a license has been disturbed, the licensee shall within one year following the relinquishment, expiration, or termination of a license issued under this part restore the land in accordance with the terms and conditions of the license.

Additional time may be granted by the authorized officer upon a showing of good cause by the licensee. The bond required by §3250.7 of this title shall not be released until the reclamation has been completed to the satisfaction of the authorized officer.

[44 FR 20391, Apr. 4, 1979, as amended at 53 FR 17373, May 16, 1988]

PART 3260—GEOTHERMAL RESOURCES OPERATIONS

NOTE 1: (a) The information collection requirement contained in §3262.4 is needed to document planned operations on geothermal leases. This information will be used to evaluate technical feasibility and environmental impacts of geothermal operations on Federal lands. The obligation to respond is mandatory. Clearance under 44 U.S.C. 3507 is not required by 44 U.S.C. 3506(c)(5).

(b) The information collection requirement contained in §3264.3 has been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1004-0132. The information is being collected to document exploration expenditures for which diligence credit is desired. This information will be used to determine if expenditures qualify as diligent exploration under 43 U.S.C. 3203.5. The obligation to respond is required to obtain a benefit.

[47 FR 24130, June 3, 1982. Redesignated at 48 FR 44788, Sept. 30, 1983, and amended at 53 FR 17375, May 16, 1988]

NOTE 2: The information collection requirements contained in part 3260 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1004-0132. The information is being collected to evaluate the technical feasibility and environmental impacts of geothermal operations on Federal lands. Clearance number 1004-0132 also covers information required by §3264.3 as is required to document exploration expenditures for which diligence credit is desired in accordance with §3203.5. A response is required to obtain a benefit.

[53 FR 17375, May 16, 1988]

NOTE 3: There are many leases and agreements currently in effect, and which will remain in effect, involving Federal geothermal resources leases which specifically refer to the United States Geological Survey, USGS, Minerals Management Service, MMS, or Conservation Division. These leases and agreements may also specifically refer to various officers such as Supervisor, Conservation